

REMARKS/ARGUMENTS:

This Amendment is in response to the Office Action mailed **02/20/2007**. By said Action Claims 20-23 and 26-28 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite; Claims 20-22 were rejected under 35 U.S.C. 102(b) as being anticipated by Baust et al. ('682); Claims 20-22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Baust et al. ('682); Claim 23 was rejected under 35 U.S.C. 103(a) as being unpatentable over Baust et al. ('682) in view of Dobak ('595); Claim 26-27 was rejected under 35 U.S.C. 103(a) as being unpatentable over Baust et al. ('682) in view of Gudkin et al. ('389); and, Claim 28 was rejected under 35 U.S.C. 103(a) as being unpatentable over Baust et al. ('682) in view of Stern et al. ('248). However, in the Office Action the Examiner invited Applicants to file a Declaration to support the arguments presented in the last Amendment.

In response to said Office Action Applicants submit herewith the Declaration of Robert V. Duncan, Ph.D. Submitted Under 37 CFR 1.132, dated 4/20/07. Attached to that Declaration is Dr. Duncan's curriculum vita.

Reconsideration and allowance of independent Claim 20 is respectfully requested. The arguments presented in the previous Amendment are repeated herewith. To further support those arguments Dr. Duncan's Declaration is deemed to provide further evidence that "near a critical point" is a well-known phrase in the art. Furthermore, his Declaration goes on to explain how the present invention is distinguishable from the Baust et al disclosure and resolves a long-standing problem that has limited the use of liquid nitrogen in cryogenic tissue ablation devices in the past. Claim 20 is therefore deemed to be in allowable condition.

Reconsideration and allowance of dependent Claims 21-28 is respectfully requested. These claims depend ultimately from Claim 20 and include the limitations of Claim 20. They are also therefore deemed to be in allowable condition.

In view of the foregoing Amendment and remarks, it is respectfully urged that all pending claims are in condition for allowance, and such action as well as passage of this case to issue is respectfully requested.

If the Examiner has any further questions, or believes that a telephone interview would be helpful to the advancement of the prosecution of the subject application, a telephone call to the undersigned would be appreciated.

Respectfully submitted,

/Lawrence N. Ginsberg/

4/20/07

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